

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION**

UNITED STATES OF AMERICA, : Case No. CR-1-02-140
: Plaintiff, : Judge Spiegel
v. :
ROGER TATE, : **MOTION TO CONTINUE**
Defendant. : **SENTENCING HEARING**

Defendant Roger Tate, by and through counsel, respectfully requests that this Court continue Tate's Sentencing Hearing currently scheduled for February 1, 2006. Counsel for Tate asserts that additional time is necessary to allow Tate to testify in a trial in Georgia and to develop possible mitigation at sentencing.

As background, Tate entered a plea a guilty to possession of a counterfeit security , in violation of 18 U.S.C. § 513. Tate was originally sentenced to 30 months in prison , to be followed by a three year term of Supervised Release. Tate appealed his sentence and the case was remanded to the District Court in light of the *Booker* decision.

Counsel requests that the Sentencing Hearing be continued until a date after February 15, 2006 in order to allow Tate the opportunity to testify in a murder trial currently pending in DeKalb County, Georgia. Counsel has been in contact with

Robert Statham, an assistant county prosecutor in Dekalb County and Statham has confirmed that Tate is expected to testify as a prosecution witness in a murder trial on February 9 and 10, 2006. Defendant Tate and Mr. Statham request additional time so that Tate can complete his testimony prior to sentencing.

Counsel has discussed this matter with Assistant United States Attorney Amul Thapar, and Thapar has no objection to a continuance of the Sentencing Hearing.

Respectfully submitted,

STEVEN S. NOLDER,
ACTING FEDERAL PUBLIC DEFENDER

s/W. Kelly Johnson

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Counsel for Defendant
Roger Tate

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing was served upon Amul Thapar, Assistant United States Attorney, by electronic filing, on January 30, 2006.

s/W. Kelly Johnson
W. Kelly Johnson